IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 14106 of 2004

Between:

1 Pamuri Balreddy, S/o Venkata Subba Reddy, Hindu,
R/o Rajupalem village, Kalasapadu Mandal, Kadapa District.
2 Shaik Nagurvalli, Muslim,
Rajupalem Village, Kalasapadu mandal, Kadapa District.

..... PETITIONERS

AND

1 The District Collector (PTS), Kadapa.
2 The Divisional Panchayat Officer, Kadapa.
3 The Mandal Parishat Development Officer, Kalasapadu Mandal,

Kadapa.
4 The Rajuapalem Gram Panchayat, rep. by its Sarpanch,

Ramakrishna Reddy, Brahmanapalli, Kalasapadu Mandal, Kadapa

District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order more especially one in the nature of writ of mandamus declaring the action of 1st respondent in issuing the Roc No. 2405/02/A2/Pts dated 14-7-2004 in revising the orders issued by the first respondent by way of partial modification of the orders in Roc No/ 2405/02/A2/Pts dated 26-5-2004 as illegal, arbitrary, capricious and against the provisions of G.O. Ms.No. 227 PR Rural Development and Relief (P.II) Department dated 13-4-1995 and consequentially suspend the orders in Roc No. Roc No. 2405/02/A2/Pts dated 14-7-2004 issued by the 1st Respondent.

Counsel for the Petitioners: MR.RAVI SHANKAR JANDHYALA

Counsel for the Respondents : GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following Order at the admission stage:

ORDER:

The petitioner is a former Sarpanch of Rajupalem Gram Panchayat, Kalasapadu Mandal in Kadapa District. Aggrieved by the proceedings in Roc.No.2405/02/A2/Pts, dated 14-07-2004, the petitioner approached this Court seeking invalidation of the said proceedings on the ground that the same are arbitrary and irrational.

The fact of the mater is not in dispute. The Gram Panchayat by majority, passed resolution to construct Gram Panchayat office building under Janma Boomi programme utilizing the funds allocated to Food for Work programme. They chose a vacant site admeasuring Acs.0.4 in Sy.No.361. However, by proceedings dated 26-05-2004, the District Collector permitted the Gram Panchayat for construction of the Gram Panchayat office building at the southern side near Primary Health Centre and Upper Primary School. Yet again by impugned order the District Collector permitted the Sarpanch to construct building on the original site.

The learned counsel for the petitioner, Sri.Ravi Shankar Jandhyala submits that though the impugned order is purportedly issued in partial modification of the orders issued on 26-05-2004, the District Collector, without any basis has totally changed the place where the office of the Gram Panchayat has to be constructed. This according to the learned counsel is illegal and improper. Secondly, he would submit that the site on the northern side, which was originally selected, is surrounded by unhygienic locality and therefore when all the officers reported, permission was accorded for construction of the office building near Primary Health Centre and therefore it is not congenial to construct office building on the northern side on the original site.

The impugned order, dated, 14-07-2004 reads as under:

"**PROCEEDINGS OF THE DISTRICT COLLECTOR(PTS), KADAPA**

PRESENT: SRI JAYESH RANJAN I.A.S.,

Roc.No.2405/2002-A2/Pts Dated: 14.07.2004

Sub:-OFFICE BUILDING – Gram Panchayat office building-

Permission is accorded to Sarpanch, Rajupalem Gram Panchayat of Kalasapadu Mandal, for construction of the Gram Panchayat office building in sy.No.361 on the North side of the village – Revised Orders – Issued.

Read: 1. This office Proceedings Roc.No.2405/2002-A2,

dated:26.05.2004.

2. Letter dated: 31.05.2004 of Sri D.C.Govinda Reddy Garu,

Hon'ble MLA, Badvel.

O R D E R :

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In partial modification of the orders issued in the reference 1st read above, permission is hereby accorded to the Sarpanch, Rajupalem Gram Panchayat of Kalasapadu Mandal to proceed with the construction of the Gram Panchayat office building in the present site, where the work was started and constructed up to the basement level by incurring expenditure as majority members of the Gram panchayat have resolved to construct the Gram Panchayat office building at the said site.

The Sarpanch, Rajupalem Gram Panchayat is instructed to take necessary action as ordered above for construction of the Gram Panchayat office building only in the above permitted site, following the rules and regulations mentioned in the A.P.P.R.Act, 1994.

(ISSUED UNDER THE NOTE ORDERS DATED 13.07.2004 OF THE DISTRICT COLLECTOR(PTS),KADAPA)

FOR COLLECTOR(PTS)"

A reading of the above order would show that the Collector modified the earlier proceedings dated 26-05-2004 only on the ground that the Gram Panchayat commenced the work on the northern side and already incurred some expenditure. There is well founded reason behind the order. Insofar as the other submissions are concerned, it is now well settled that these matters are not justiciable. Where the panchayat building is to be constructed? If so, where it is to be constructed and how it is to be constructed, are all matters left to the authorities entrusted with the job. This Court cannot enter into merits of the case, and cannot take a view, which is different from the view taken by the authorities unless mala fides are attributed. In this case no mala fides are attributed to District Collector and other officials and legal malice is neither pleaded nor argued.

The writ petition is misconceived and is accordingly dismissed.

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(V.V.S.RAO, J)

vs

To

1 The District Collector (PTS), Kadapa.
2 The Divisional Panchayat Officer, Kadapa.
3 The Mandal Parishat Development Officer, Kalasapadu Mandal,

Kadapa.
4 The Sarpanch, RamaKrishna Reddy, Rajuapalem Gram Panchayat,

Brahmanapalli, Kalasapadu Mandal, Kadapa District.

5 Two CCs to the G.P for Panchayat Raj and Rural Development, High

Court Buildings, Hyderabad (O.U.T0.

6 Two CD copies.

HON'BLE SRI JUSTICE V.V.S.RAO

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Dated: 10-08-2004